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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 CARMEN COPELAND,

9 Plaintiff,

10 v.

11 SIERRA PACIFIC MTG,

12 Defendant.

CASE NO. C19-6194 BHS

ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS AND GRANTING
PLAINTIFF LEAVE TO AMEND

13 This matter comes before the Court on Defendant Sierra Pacific Mtg's ("Sierra")
14 unopposed motion to dismiss. Dkt. 5.

15 On November 5, 2019, Plaintiff Carmen Copeland ("Copeland") filed a complaint
16 against Sierra in Clark County Superior Court for the State of Washington. Dkt. 1-1.
17 Copeland asserts personal injuries and requests damages against Sierra. *Id.* at 3-4. On
18 December 12, 2019, Sierra removed the matter to this Court. Dkt. 1. On December 19,
19 2019, Sierra filed a motion to dismiss for insufficient service and failure to state a claim.
20 Dkt. 5. Copeland did not respond, which the Court considers as an admission that the
21 motion has merit. Local Rules W.D. Wash. LCR 7(b)(2).
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1 Upon review of the complaint and motion, the Court agrees with Sierra that
2 Copeland has failed to establish proper service and fails to state a claim for relief. The
3 Court, however, disagrees that the complaint should be dismissed with prejudice because
4 Sierra has failed to establish that any amendment would be futile. *Eminence Capital,*
5 *LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (In the event the court finds
6 that dismissal is warranted, the court should grant the plaintiff leave to amend unless
7 amendment would be futile.). Therefore, the Court dismisses the complaint without
8 prejudice and with leave to amend.

9 Copeland shall file an amended complaint or otherwise respond no later than
10 March 13, 2020. Failure to respond will result in **dismissal with prejudice** and the Clerk
11 shall close the case without further order of the Court.

12 **IT IS SO ORDERED.**

13 Dated this 25th day of February, 2020.

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16 BENJAMIN H. SETTLE
17 United States District Judge
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